

AMENDED IN ASSEMBLY APRIL 25, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 900

Introduced by Assembly Member Papan

February 23, 2001

~~An act to amend Section 805 of the Business and Professions Code, relating to the healing arts. An act to amend Section 127775 of the Health and Safety Code, relating to health personnel.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 900, as amended, Papan. ~~Healing arts: peer review~~ *Health personnel planning.*

Existing law authorizes the Office of Statewide Health Planning and Development to receive, and authorizes the Medical Board of California to provide, certain information respecting individual licentiates.

This bill would declare that the Legislature urges the office to receive, and the board to provide, information regarding a physician's specialty board certification and his or her practice status. This act would become effective only if AB 1586 is enacted and other conditions are met. The bill would also make technical, nonsubstantive changes.

~~Existing law, the Medical Practice Act, provides for the licensure and regulation by the Medical Board of California of the practice of physicians and surgeons. Under that act, the board, through its Division of Medical Quality, is authorized to take disciplinary action against a physician and surgeon for the commission of specified acts of misconduct.~~

~~Existing law also provides for a process of peer review of the practices of physicians and surgeons, as well as other specified healing arts practitioners. Under existing law, the peer review body, which is defined as including, among other entities, a health care service plan, is required to file with the practitioner's licensing board a report, designated as an "805 report," within 15 days of certain disciplinary actions having been taken against a practitioner as a result of its proceedings. Existing law makes it a public offense to intentionally fail to comply with this reporting requirement. However, a health care service plan is excused from making an 805 report if another peer review body is required to file one.~~

~~This bill would excuse a peer review body from filing an 805 report if the Medical Board of California has taken disciplinary action against the physician and surgeon for the same conduct. The bill would also include a disability insurer that contracts with specified healing arts practitioners to provide services at alternative rates of payment as a peer review body and would prohibit a health care service plan and a disability insurer from cancelling or conditioning a contract with a physician and surgeon on the basis of his or her being the subject of an 805 report. The bill additionally would recast provisions pertaining to the time within which a peer review body is required to file the 805 report.~~

~~Because this bill would make an additional entity subject to punishment for intentionally failing to file an 805 report, it would expand the scope of an existing crime, thereby imposing a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes no. State-mandated local program: yes no.~~

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 805 of the Business and Professions~~
- 2 ~~SECTION 1. Section 127775 of the Health and Safety Code is~~
- 3 ~~amended to read:~~

1 ~~127775. Notwithstanding Sections 922 and 925 of the~~
2 ~~Business and Professions Code, the~~ (a) *The office may receive,*
3 *and the Medical Board of California may provide, information*
4 *respecting individual licentiates collected pursuant to Sections*
5 *921 and 923 of the Business and Professions Code.*

6 ~~Information~~

7 (b) *Information* provided to the office pursuant to this section
8 shall be transmitted in a form so that the name or license number
9 of an individual licensee is not identifiable. However, an encoding
10 procedure shall be used to assign a unique identifying number to
11 the other information provided upon the questionnaire so as to
12 allow the office to track the geographical movements of physicians
13 for planning purposes.

14 (c) *The Legislature hereby urges the office to receive, and the*
15 *board to provide, the information required by Section 2425.1 of the*
16 *Business and Professions Code.*

17 SEC. 2. *This act shall not become effective unless AB 1586 of*
18 *the 2000–01 Regular Session is enacted and adds Section 2425.1*
19 *to the Business and Professions Code.*

20 ~~Code is amended to read:~~

21 805. —(a) ~~As used in this section, the following terms have the~~
22 ~~following definitions:~~

23 (1) ~~“Peer review body” includes:~~

24 (A) ~~A medical or professional staff of any health care facility~~
25 ~~or clinic licensed under Division 2 (commencing with Section~~
26 ~~1200) of the Health and Safety Code or of a facility certified to~~
27 ~~participate in the federal Medicare program as an ambulatory~~
28 ~~surgical center.~~

29 (B) ~~A health care service plan registered under Chapter 2.2~~
30 ~~(commencing with Section 1340) of Division 2 of the Health and~~
31 ~~Safety Code or a disability insurer that contracts with licentiates~~
32 ~~to provide services at alternative rates of payment pursuant to~~
33 ~~Section 10133 of the Insurance Code.~~

34 (C) ~~Any medical, psychological, marriage and family therapy,~~
35 ~~social work, dental, or podiatric professional society having as~~
36 ~~members at least 25 percent of the eligible licentiates in the area~~
37 ~~in which it functions (which must include at least one county), that~~
38 ~~is not organized for profit and that has been determined to be~~
39 ~~exempt from taxes pursuant to Section 23701 of the Revenue and~~
40 ~~Taxation Code.~~

~~(D) A committee organized by any entity consisting of or employing more than 25 licentiates of the same class that functions for the purpose of reviewing the quality of professional care provided by members or employees of that entity.~~

~~(2) “Licentiate” means a physician and surgeon, podiatrist, clinical psychologist, marriage and family therapist, clinical social worker, or dentist. “Licentiate” also includes a person authorized to practice medicine pursuant to Section 2113.~~

~~(3) “Agency” means the relevant state licensing agency having regulatory jurisdiction over the licentiates listed in paragraph (2).~~

~~(4) “Staff privileges” means any arrangement under which a licentiate is allowed to practice in or provide care for patients in a health facility. Those arrangements shall include, but are not limited to, full staff privileges, active staff privileges, limited staff privileges, auxiliary staff privileges, provisional staff privileges, temporary staff privileges, courtesy staff privileges, locum tenens arrangements, and contractual arrangements to provide professional services, including, but not limited to, arrangements to provide outpatient services.~~

~~(5) “Denial or termination of staff privileges, membership, or employment” includes failure or refusal to renew a contract or to renew, extend, or reestablish any staff privileges, when the action is based on medical disciplinary cause or reason.~~

~~(6) “Medical disciplinary cause or reason” means that aspect of a licentiate’s competence or professional conduct that is reasonably likely to be detrimental to patient safety or to the delivery of patient care.~~

~~(7) “805 report” means the written report required under subdivision (b).~~

~~(b) The chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic shall file an 805 report with the relevant agency within 15 days after any of the following takes place as a result of an action of a peer review body:~~

~~(1) A licentiate’s application for staff privileges or membership is denied or rejected for a medical disciplinary cause or reason.~~

~~(2) A licentiate’s membership, staff privileges, or employment is terminated or revoked for a medical disciplinary cause or reason.~~

~~(3) Restrictions are imposed, or voluntarily accepted, on staff privileges, membership, or employment for a cumulative total of 30 days or more for any 12-month period, for a medical disciplinary cause or reason.~~

~~(4) A summary suspension of 15 or more days in duration of the licentiate's employment or of the licentiate's staff privileges or membership, for a medical disciplinary cause or reason.~~

~~(5) A licentiate resigns or takes a leave of absence from membership, staff, or employment following notice of an impending investigation based on information indicating medical disciplinary cause or reason.~~

~~If a licentiate requests a hearing pursuant to Section 809.2, no 805 report shall be filed by a peer review body unless the trier of fact at that hearing sustains the denial, termination, rejection, restriction, resignation, revocation, suspension, or leave of absence. If the trier of fact sustains the action, the peer review body, within 15 days of that decision, shall file the 805 report without regard to any filing for judicial review of the decision issued in that hearing.~~

~~A copy of the 805 report, and a notice advising the licentiate of his or her right to submit additional statements or other information pursuant to Section 800, shall be sent by the peer review body to the licentiate named in the report.~~

~~The information to be reported in an 805 report shall include the name of the licentiate involved, a description of the facts and circumstances of the medical disciplinary cause or reason, and any other relevant information deemed appropriate by the reporter.~~

~~A supplemental report shall also be made within 30 days following the date the licentiate is deemed to have satisfied any terms, conditions, or sanctions imposed as disciplinary action by the reporting peer review body. In performing its dissemination functions required by Section 805.5, the agency shall include a copy of a supplemental report, if any, whenever it furnishes a copy of the original 805 report.~~

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If another peer review body is required to file an 805 report, a health care service plan is not required to file a separate report with respect to action attributable to the same medical disciplinary cause or reason. If the Medical Board of California revokes or suspends the license of a physician and surgeon or takes any other~~

1 ~~disciplinary action against him or her, a peer review body is not~~
2 ~~required to file an 805 report with respect to action attributable to~~
3 ~~the same medical disciplinary cause or reason.~~

4 ~~(e) The reporting required herein shall not act as a waiver of~~
5 ~~confidentiality of medical records and committee reports. The~~
6 ~~information reported or disclosed shall be kept confidential except~~
7 ~~as provided in subdivision (e) of Section 800 and Sections 803.1~~
8 ~~and 2027, provided that a copy of the report containing the~~
9 ~~information required by this section may be disclosed as required~~
10 ~~by Section 805.5 with respect to reports received on or after~~
11 ~~January 1, 1976.~~

12 ~~(d) The Medical Board of California, the Osteopathic Medical~~
13 ~~Board of California, and the Dental Board of California shall~~
14 ~~disclose reports as required by Section 805.5.~~

15 ~~(e) An 805 report shall be maintained by an agency for~~
16 ~~dissemination purposes for a period of three years after receipt.~~

17 ~~(f) No person shall incur any civil or criminal liability as the~~
18 ~~result of making any report required by this section.~~

19 ~~(g) An intentional failure to make a report pursuant to this~~
20 ~~section is a public offense punishable by a fine not to exceed ten~~
21 ~~thousand dollars (\$10,000).~~

22 ~~(h) A failure by the administrator of any peer review body or~~
23 ~~the chief executive officer or administrator of any health care~~
24 ~~facility who is designated to transmit a report pursuant to this~~
25 ~~section whether or not the failure is intentional is punishable by a~~
26 ~~civil penalty not exceeding five thousand dollars (\$5,000) per~~
27 ~~violation payable to the board with jurisdiction over the licensee~~
28 ~~in any action brought by the Attorney General.~~

29 ~~(i) A health care service plan registered under Chapter 2.2~~
30 ~~(commencing with Section 1340) of Division 2 of the Health and~~
31 ~~Safety Code or a disability insurer shall not include in any contract~~
32 ~~with a physician and surgeon a term cancelling the contract or~~
33 ~~imposing any additional condition on a physician and surgeon~~
34 ~~based on his or her being the subject of an 805 report.~~

35 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
36 ~~Section 6 of Article XIII B of the California Constitution because~~
37 ~~the only costs that may be incurred by a local agency or school~~
38 ~~district will be incurred because this act creates a new crime or~~
39 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
40 ~~for a crime or infraction, within the meaning of Section 17556 of~~

1 ~~the Government Code, or changes the definition of a crime within~~
2 ~~the meaning of Section 6 of Article XIII B of the California~~
3 ~~Constitution.~~

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